

## **REMARKS**

### **Summary of the Office Action**

Claims 1, 3, 5, and 9 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Ikeda et al. (US 6,671,025).

Claims 2 and 6 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ikeda et al. in view of Miyazaki et al. (US 5,978,061) and Yanagawa et al. (US 6,583,846).

Claim 7 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Ikeda et al. in view of Miyazaki et al., Yanagawa et al., and Inou (US 6,078,274).

### **Summary of the Response to the Office Action**

Applicants have amended claims 1 and 5 to incorporate claim 3 and the allowable subject matter of claims 4 and 8, respectively, and canceled claims 3, 4, and 8. Accordingly, claims 1, 2, 5-7, and 9 are pending for consideration.

### **Request for Withdrawal of Finality**

First, as specifically pointed out in Applicants' Amendment filed on February 16, 2005, the Examiner never properly considered and examined every feature of independent claims 1 and 5 in the Office Action dated November 16, 2004. As directed by MPEP 2163.06(I), "[t]he Examiner should still consider the subject matter added to the claim in making rejections based on the prior art since the new matter rejection may be overcome by applicant." Accordingly, Applicants respectfully assert that the Examiner has not properly and thoroughly performed examination of Applicants' claimed invention. Specifically, as pointed out in Applicants' Amendment filed on February 16, 2005, the Examiner never considered the features alleged in the Office Action dated November 16, 2004 to be new matter. For example, nowhere in the prior

art rejection portion of the Office Action dated November 16, 2004 did the Examiner even address or recite the features of “wherein each of the plurality of column spacers are separated from one another and are disposed at intersections of the gate and data lines.” Thus, as predicted by MPEP 2163.06(I), Applicants’ Amendment filed on February 16, 2005 overcame the objection/rejection of the alleged “new matter,” as evidenced by the Final Office Action dated April 7, 2005. However, Applicants never received any examination, with regard to prior art, on the features alleged to be “new matter,” and thus, have not had their invention properly examined in the Office Action dated November 16, 2004. Thus, Applicants respectfully request that the finality of the Final Office Action dated April 7, 2005 be withdrawn in order for the present Amendment to be entered and considered by the Examiner.

Second, Applicants respectfully assert that the Final Office Action now includes a new ground of rejection not necessitated by an amendment to the claims. Specifically, the Final Office Action now includes a rejection of claim 7 under 35 U.S.C. § 103(a) in view of Ikeda et al., Miyaski et al., Yanagawa et al., and Inou. However, as evidenced by Applicants’ Amendment filed on February 16, 2005, neither independent claim 5 nor dependent claims 6 and 7 were amended. Moreover, Applicants respectfully assert that claim 7 has *never* been rejected on grounds of prior art. Although the Examiner has rejected claim 7 on other non-prior art grounds, the features of claim 7 have *never* been examined for patentability in view of the prior art. As directed by MPEP 706.07(a), “[u]nder present practice, second or any subsequent actions on the merits shall be final, **except where the examiner introduces a new ground of rejection that is neither necessitated by applicant’s amendment of the claims** nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR

1.97(c) with the fee set forth in 37 CFR 1.117(p)” (emphasis added). Accordingly, Applicants respectfully assert that finality of the Final Office Action dated April 7, 2005 is premature and must be withdrawn because: (1) neither independent claim 5 nor dependent claims 6 and 7 were amended by Applicants’ Amendment filed on February 16, 2005; and (2) the merits of claim 7 have never been examined with regard to the prior art.

Therefore, for at least the above reasons, Applicants respectfully request that finality of the Final Office Action be withdrawn and the present Amendment be entered and considered by the Examiner.

**All Claims Define Allowable Subject Matter**

Claims 1, 3, 5, and 9 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Ikeda et al. (US 6,671,025), claims 2 and 6 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ikeda et al. in view of Miyazaki et al. (US 5,978,061) and Yanagawa et al. (US 6,583,846), and claim 7 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Ikeda et al. in view of Miyazaki et al., Yanagawa et al., and Inou (US 6,078,274). Applicants respectfully traverse these rejections for the following reasons.

Without acquiescing to the Final Office Action’s position that at least independent claims 1 and 5 are unpatentable, as presented in the Amendment filed on February 16, 2005, Applicants have amended independent claims 1 and 5 to incorporate claim 3 and the allowable subject matter of claims 4 and 8, respectively, in order to advance prosecution of the present application. Accordingly, Applicants respectfully assert that claims 1, 2, 5-7, and 9 are now in clear condition for allowance by entry of the present Amendment.

**CONCLUSION**

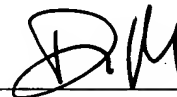
In view of the foregoing, Applicants respectfully request entry of the amendments, reconsideration, and the timely allowance of the pending claims. Should the Examiner feel that there are any issues outstanding after consideration of the response, the Examiner is invited to contact the Applicants' undersigned representative to expedite prosecution.

If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-0310. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

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By: \_\_\_\_\_



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